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EXAMINER	
SALTARELLI, DOMINIC D	

ART UNIT	PAPER NUMBER
2611	5

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/681,275	FRANKEN ET AL.	
	Examiner	Art Unit	
	Dominic D Saltarelli	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 December 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Priority

1. Acknowledgement is made of applicant's claim for continuity to application 09/092,128, now US Patent 6,147,642. However, each claim in the current application consists of new material not found in the parent application. Therefore, the effective filing date for claims 1-20 is March 12, 2001.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 4, 6, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Boyer et al. (6,268,849).

Regarding claim 1, Boyar discloses an electronic programming guide system (Figure 1, item 8) comprising:

A web browser (col. 6, lines 5-10) on a first PC at a first view location (Figure 1, items 70, 72, 74, 76, col. 5, lines 40-44);

A computer system at a second location (Figure 1, item 10), coupled to said web browser via a computer network (Figure 1, item 60)

Said web browser displaying a web transmitted guide (col. 5, lines 21-26 and col. 6, lines 1-5) comprising a plurality of cells arranged in rows and columns (Figure 9, col. 8, lines 63-67), wherein said web transmitted guide is transmited from said second location;

Where each of said plurality of cells is associated with a particular program and contains descriptive text related to said particular program (Figure 9, col. 8 line 67 – col. 9 line 13); and

Where each of said plurality of cells further includes a web browser displayed hypertext link (Figure 9, item 650) which is coupled to software which upon an occurrence of a click on said hypertext link, causes said first PC to receive a video image associated with said particular program (col. 9, lines 55-67, see also col. 5, lines 52-58 and col. 6, lines 5-22).

Regarding claim 2, Boyar discloses the system of claim 1, and further discloses a programming source (Figure 1, item 12) which provides video signals (col. 4, lines 6-11) over an internet connection (Figure 1, item 60).

Regarding claim 4, Boyar discloses the system of claim 2, and further discloses said video image is displayed on a PC display device (col. 6, lines 5-22).

Regarding claim 6, Boyar discloses the system of claim 1, and further discloses a PCDTV board disposed in said first PC which tunes video signals (Figure 1, item 78, col. 5, lines 34-37) where said software links said web transmitted guide to said PCDTV board (col. 5, lines 52-58).

Regarding claim 7, Boyar discloses the system of claim 6, and further discloses said video image is displayed on a PC display device (col. 6, lines 5-22).

Regarding claim 18, Boyar discloses a video delivery system (Figure 1, item 8, col. 3 line 65 – col. 4 line 11 and col. 4, lines 44-48) comprising:

Means for providing a web transmitted television programming guide (Figure 1, item 55, col. 5, lines 1-3) for a first PC (Figure 1, items 70, 72, 74, 76, col. 5, lines 40-44);

Means for clicking on a web browser displayed hypertext link in said web transmitted guide (col. 9, lines 61-62); and

Means for delivering video images (col. 5, lines 1-3, 21-26), in response to said means for clicking (col. 6, lines 62-67) to said viewer on said first PC, such that said video images relate to textual and temporal information included in said web transmitted guide (col. 6, lines 61-63).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al. (of record) in view of Boyer et al.

Alternatively, claims 1, 2, 4, 6, 7, and 18 can also be rejected as an obvious modification of the Matthews et al. reference of record in view of Boyar.

Regarding claim 1, Matthews et al. disclose an electronic programming guide comprising: a browser (106) shown in Figure 4 (col. 8, lines 66-67) on a first PC at a first viewer location (64) shown in Figure 3 (col. 7, lines 47-50), a computer system (22) shown in Figure 3 (col. 7 lines 45-47) at a second location, coupled to said browser (106) via a computer network (74) shown in Figure 4, said browser (106) displaying a guide (104) comprising a plurality of cells arranged in rows and columns (Figure 5), wherein said guide is transmitted from said second location (col. 6, lines 59-62), where each of said plurality of cells is associated with a particular program and contains descriptive text relating to said particular program (also shown in Figure 5) (col. 8, lines 55-63) and, where each of said plurality of cells further includes a hypertext link (140) (col. 9, lines 56-60), which is coupled to software (col. 10, lines 2-3) which upon an occurrence of a

click on said hypertext link, causes said first PC (64) to receive a video image associated with said particular program (col. 12, lines 10-26, 30-33).

Matthews et al. also discloses the guide to receive supplemental interactive content [EPG data] from the Internet (col. 7 line 64 - col. 8, line 1 and col. 8, lines 6-11).

Matthews et al. fail to disclose the browser is a web browser and the guide is a web-transmitted guide.

Boyer et al. disclose a web browser (Figure 2, item 200, col. 2, lines 43-47) for displaying a web-transmitted guide (Figure 9, col. 5, lines 1-3, 21-27), allowing a user to access the guide using commonly available web browser software (col. 1, lines 65-67), removing reliance upon specialized, client side software and equipment (col. 1, lines 45-49).

It would have been obvious at the time to a person of ordinary skill in the art to modify the electronic programming guide system disclosed by Matthews et al. to include a web browser for displaying a web-transmitted guide, as taught by Boyer et al., for the advantage of allowing users to access the guide using commonly available web browser software removing reliance upon specialized, client side software and equipment.

Regarding claim 2, Matthews et al. and Boyer et al. disclose the system of claim 1, and additionally disclose a programming source (Matthews et al., Figure 1, item 22) which provides video signals over an internet connection, which falls

under the definition of networks provided in col. 7, lines 54-63 of Matthews et al., and where said software links said web transmitted guide to said programming source (Matthews et al. col. 6, lines 59-61, and col. 8, lines 6-11).

Regarding claim 3, Matthews et al. and Boyar et al. disclose the system of claim 2, and additionally disclose said video image to be recorded on said first PC (Matthews et al. Figure 3, item 64) for subsequent review (Matthews et al. col. 12, lines 26-29, 38-40).

Regarding claim 4, Matthews et al. and Boyar et al. disclose the system of claim 2, and additionally disclose said video image to be displayed on a PC display device (Matthews et al. Figure 3, item 66, col. 7, lines 47-50).

Regarding claim 5, Matthews et al. and Boyar et al. disclose the system of claim 4, and additionally disclose said video image to be recorded on said first PC (Matthews et al. Figure 3, item 64) for subsequent review (Matthews et al. col. 12, lines 26-29, 38-40).

Regarding claim 6, Matthews et al. and Boyar et al. disclose the system of claim 1, and additionally disclose a PCDTV board (Matthews et al. Figure 4, item 98), which tunes video signals, where said software links said web transmitted guide to said PCDTV board (Matthews et al. col. 8, lines 27-30, 58-62).

Regarding claim 7, Matthews et al. and Boyar et al. disclose the system of claim 6, and additionally disclose said first PC (Matthews et al., Figure 3, item 64) displays video signals on a PC display device (Matthews et al. Figure 3, item 66, col. 7, lines 47-50).

Regarding claim 8, Matthews et al. and Boyar et al. disclose the system of claim 6, and additionally disclose said first PC (Matthews et al., Figure 3, item 64) records said video signals for subsequent review (Matthews et al. col. 12, lines 26-29, 38-40).

Regarding claim 9, Matthews et al. and Boyar et al. disclose the system of claim 8, and additionally disclose said first PC (Matthews et al. Figure 3, item 64) displays video signals on a PC display device (Matthews et al. Figure 3, item 66, col. 7, lines 47-50).

Regarding claim 10, Matthews et al. and Boyar et al. disclose the system of claim 9, and additionally disclose said PCDTV board (Matthews et al. Figure 4, item 98) receives signals from a broadcast television antenna (Matthews et al. col. 6, lines 7-8, 17-18 and col. 8, lines 24-30).

Regarding claim 11, Matthews et al. and Boyar et al. disclose the system of claim 9, and additionally disclose said PCDTV board (Matthews et al. Figure 4, item 98) receives signals from a coaxial antenna cable coupled to a source of cable television (Matthews et al. col. 6, lines 7-8, 10-14 and col. 8, lines 24-30).

Regarding claim 12, Matthews et al. disclose a method of delivering television video images to a viewer comprising the steps of providing television programming guide (104) to a first PC (64), clicking on a hypertext link (140) in said guide, and in response to said clicking, delivering video images to said viewer on said first PC (64) (col. 12, lines 10-26, 30-33), such that said video images relate to textual and temporal information included in said guide (Figure 5 and col. 9, lines 45-46).

Matthews et al. also discloses the guide to receive supplemental interactive content [EPG data] from the Internet (col. 7 line 64 - col. 8, line 1 and col. 8, lines 6-11).

Matthews et al. fail to disclose the guide is web transmitted and the hypertext link is displayed in a web browser.

Boyer et al. disclose a web browser (Figure 2, item 200, col. 2, lines 43-47), which also includes hypertext links, for displaying a web-transmitted guide (Figure 9, col. 5, lines 1-3, 21-27), allowing a user to access the guide using commonly available web browser software (col. 1, lines 65-67).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Matthews et al. to include a web-transmitted guide and to display the hypertext link in a web browser, as taught by Boyer et al., for the advantage of allowing users to access the guide using commonly available web browser software.

Regarding claim 13, Matthews et al. and Boyar et al. disclose the method of claim 12, and additionally disclose delivering video images includes delivery of data over an internet connection (Matthews et al. col. 7, lines 64-67 and col. 8, line 1) and generating said video images using said data (Matthews et al. col. 10, lines 2-3, and col. 12, lines 10-29).

Regarding claim 14, Matthews et al. and Boyar et al. disclose the method of claim 12, and additionally disclose said step of delivering video images includes demodulating television signals within said first PC using a PCDTV board (Matthews et al. col. 8, lines 24-30).

Regarding claim 15, Matthews et al. and Boyar et al. disclose the method of claim 14, and additionally disclose said television signals are received via a broadcast television antenna coupled to said first PC (Matthews et al. col. 6, lines 7-8, 17-18 and col. 8, lines 24-30).

Regarding claim 16, Matthews et al. and Boyar et al. disclose the method of claim 15, and additionally disclose said step of delivering video images includes a step of recording said video images on said first PC (Matthews et al. Figure 3, item 64) for subsequent review (Matthews et al. col. 12, lines 26-29, 38-40) by the viewer.

Regarding claim 17, Matthews et al. and Boyar et al. disclose the method of claim 16, and additionally disclose said step of delivering video images includes delivery of data over an internet connection and generating at least a portion of said video images using said data (Matthews et al. col. 7, lines 54-63, and col. 8, lines 6-8).

Regarding claim 18, Matthews et al. disclose a video delivery system comprising means for providing a television programming guide (104) to a first PC (64) (col. 8, lines 55-62), means for clicking on a hypertext link (140) in said guide (col. 9, lines 55-60), and means for delivering video images in response to said means for clicking (col. 7, lines 45-50) to said viewer on said first PC (64), such that said video images relate to textual and temporal information include in said guide (Figure 5, col. 9, lines 45-46).

Matthews et al. also discloses the guide to receive supplemental interactive content [EPG data] from the Internet (col. 7 line 64 - col. 8, line 1 and col. 8, lines 6-11).

Matthews et al. fail to disclose the guide is web transmitted and the hypertext link is displayed in a web browser.

Boyer et al. disclose a web browser (Figure 2, item 200, col. 2, lines 43-47), which also includes hypertext links, for displaying a web-transmitted guide (Figure 9, col. 5, lines 1-3, 21-27), allowing a user to access the guide using commonly available web browser software (col. 1, lines 65-67).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Matthews et al. to include a web-transmitted guide and to display the hypertext link in a web browser, as taught by Boyer et al., for the advantage of allowing users to access the guide using commonly available web browser software.

Regarding claim 19, Matthews et al. and Boyar et al. disclose the system of claim 18, and additionally disclose means for demodulating a television signal received in said first PC (Matthews et al. Figure 3, item 64) via a broadcast antenna (Matthews et al. col. 6, lines 7-8, 17-18, and col. 8, lines 24-30), and means for delivery of data over an internet connection an generating said video images using said data (Matthews et al. col. 12, lines 10-40).

6. Claim 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews et al. in view of Cathey et al. (of record) and Boyar et al.

Regarding claim 20, Matthews et al. disclose a browser (106) shown in Figure 4 (col. 8, lines 66-67) on a first PC at a first viewer location (64) shown in Figure 3 (col. 7, lines 47-50), a computer system (22) shown in Figure 3 (col. 7 lines 45-47) at a second location, coupled to said browser (106) via a computer network (74) shown in Figure 4, said browser (106) displaying a guide (104) comprising a plurality of cells arranged in rows and columns (Figure 5), wherein said guide is transmitted from said second location (col. 6, lines 59-62), where each of said plurality of cells is associated with a particular program and contains descriptive text relating to said particular program (also shown in Figure 5) (col. 8, lines 55-63) and, where each of said plurality of cells further includes a hypertext link (140) (col. 9, lines 56-60), which is coupled to software (col. 10, lines 2-3) which upon an occurrence of a click on said hypertext link, causes said first PC (64) to receive a video image associated with said particular program (col. 12, lines 10-26, 30-33), a programming source (22) which provides video signals over an internet connection, which falls under the definition of networks provided in col. 7, lines 54-63, and where said software links said guide to said programming source (col. 6, lines 59-61, and col. 8, lines 6-11), wherein said video image is recorded on said first PC (64) for subsequent review (col. 12, lines 26-29, 38-40), a PCDTV board (98) shown in Figure 4, which tunes video signals, where said software links said guide to said PCDTV board (col. 8, lines 27-30, 58-62), wherein said PCDTV board (98) receives signals from a broadcast television antenna (col. 6, lines 7-8, 17-18 and col. 8, lines 24-30). Matthews et

al. specify that the programming source can be delivered in a combination of wired and wireless technologies (col. 6, lines 19-21), accommodating said software to link the guide to both the program source provided through the internet and to the PCDTV board (98) which receives signals from a broadcast antenna.

Matthews et al. also discloses the guide to receive supplemental interactive content [EPG data] from the Internet (col. 7 line 64 - col. 8, line 1 and col. 8, lines 6-11).

What Matthews et al. fail to disclose is software coupled to said browser for reporting viewing choices made by a user, so that television ratings and consumer research can be facilitated.

Cathey et al. disclose software (18) coupled to server (14) which logs choices made by users (col. 3 lines 7-9). The motivation for doing so is listed in detail in col. 12, lines 1-19, and can be summarized as a means for facilitating television ratings and consumer research.

It would have been obvious at the time to a person of ordinary skill in the art to include in the system described by Matthews et al. software coupled to said browser for reporting viewing choices made by a user. The reason for doing so would be to facilitate television ratings and consumer research.

Matthews et al. and Cathey et al. fail to disclose the browser is a web browser, the guide is a web transmitted guide, and the hypertext link is displayed in a web browser.

Boyer et al. disclose a web browser (Figure 2, item 200, col. 2, lines 43-47), which also includes hypertext links, for displaying a web-transmitted guide (Figure 9, col. 5, lines 1-3, 21-27), allowing a user to access the guide using commonly available web browser software (col. 1, lines 65-67).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Matthews et al. and Cathey et al. to include a web browser, a web-transmitted guide, and to display the hypertext link in the web browser, as taught by Boyer et al., for the advantage of allowing users to access the guide using commonly available web browser software.

Response to Arguments

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., tuning to or playing video) are not recited in the rejected claims 1 and 12. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

8. Applicant's arguments with respect to claims 1, 2, 6, 12, 18, and 20 have been considered but are moot in view of the new grounds of rejection.

9. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

1. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D Saltarelli whose telephone number is (703) 305-8660. The examiner can normally be reached on M-F 10-7.

If attempts to reach the examiner by telephone are unsuccessful, the primary examiner, Christopher Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Dominic Saltarelli
Patent Examiner

DS

CHRIS GRANT
PRIMARY EXAMINER